

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

JOHN BAX,

Petitioner,

v.

WARDEN, FCI MCKEAN,

Respondent.

Civil Action No. 05-194 Erie

**MEMORANDUM ORDER**

This habeas corpus action was received by the Clerk of Court on June 22, 2005, and was referred to United States Magistrate Judge Susan Paradise Baxter for report and recommendation in accordance with the Magistrates Act, 28 U.S.C. § 636(b)(1), and Rules 72.1.3 and 72.1.4 of the Local Rules for Magistrates.

The Magistrate Judge's Report and Recommendation [Doc. No. 17], filed on July 27, 2006, recommended that Petitioner's Petition be dismissed for lack of subject matter jurisdiction and that a certificate of appealability be denied. The parties were allowed ten (10) days from the date of service to file objections. Service was made on Petitioner by certified mail and on Respondent. Petitioner was subsequently granted an extension until August 18, 2006 in which to file objections [Doc. No. 19]. No objections were filed. After de novo review of the petition and documents in the case, together with the Report and Recommendation, the following order is entered:

AND NOW, this 22<sup>nd</sup> day of August, 2006;

IT IS HEREBY ORDERED that the Petitioner's Petition for Writ of Habeas Corpus is DISMISSED for lack of subject matter jurisdiction and a certificate of appealability is DENIED.

The Report and Recommendation [Doc. No. 17] of Magistrate Judge Baxter, filed on July 27, 2006, is adopted as the opinion of the Court.

s/ Sean J. McLaughlin  
United States District Judge

cm: All parties of record

Susan Paradise Baxter, U.S. Magistrate Judge